

§ 434.71

chapter to any Medicaid recipient who requests it.

(b) CMS may withhold FFP for any period during which—

(1) The State fails to meet the State plan requirements of this part;

(2) Either party to a contract substantially fails to carry out the terms of the contract; or

(3) The State fails to obtain from each HMO or HIO contractor proof that it meets the requirements for physician incentive plans specified in §§ 417.479(d) through (g) and (i) of this chapter.

[61 FR 13449, Mar. 27, 1996, as amended at 61 FR 69050, Dec. 31, 1996]

EFFECTIVE DATE NOTE: At 66 FR 6403, Jan. 19, 2001, § 434.70 was revised, effective April 19, 2001. At 66 FR 11546, Feb. 26, 2001 the effective date was delayed until June 18, 2001, at 66 FR 32776, June 18, 2001 it was furthered delayed until Aug. 17, 2001, and at 66 FR 43090, Aug. 17, 2001 it was furthered delayed until Aug. 16, 2002. For the convenience of the user, the revised text is set forth as follows:

§ 434.70 Conditions for Federal financial participation (FFP).

(a) *Basic requirements.* FFP is available only for periods during which the contract—

(1) Meets the requirements of this part;

(2) Meets the applicable requirements of 45 CFR part 74; and

(3) Is in effect.

(b) *Basis for withholding.* CMS may withhold FFP for any period during which—

(1) The State fails to meet the State plan requirements of this part; or

(2) Either party substantially fails to carry out the terms of the contract.

§ 434.71 Condition for FFP: Prior approval.

FFP is not available in expenditures under an HMO contract unless the agency secured prior written notice from the Regional Office, indicating that the contractor meets the definition of an HMO.

EFFECTIVE DATE NOTE: At 66 FR 6404, Jan. 19, 2001, § 434.71 was removed, effective April 19, 2001. At 66 FR 11546, Feb. 26, 2001 the effective date was delayed until June 18, 2001, at 66 FR 32776, June 18, 2001 it was furthered delayed until Aug. 17, 2001, and at 66 FR 43090, Aug. 17, 2001 it was furthered delayed until Aug. 16, 2002.

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§ 434.72 Effect of a final determination that a provisional status HMO is not an HMO.

(a) FFP is available in expenditures for payments to a provisional status HMO until the Public Health Service reaches a final determination that it is not a federally qualified HMO.

(b) The Public Health Service's determination that the entity with provisional status is not an HMO is not considered final until—

(1) All administrative, but not judicial, appeal procedures are exhausted; or

(2) The time for requesting administrative review has lapsed without a request from the HMO.

EFFECTIVE DATE NOTE: At 66 FR 6404, Jan. 19, 2001, § 434.72 was removed, effective April 19, 2001. At 66 FR 11546, Feb. 26, 2001 the effective date was delayed until June 18, 2001, at 66 FR 32776, June 18, 2001 it was furthered delayed until Aug. 17, 2001, and at 66 FR 43090, Aug. 17, 2001 it was furthered delayed until Aug. 16, 2002.

§ 434.74 Costs under risk-basis contracts.

Under each contract in which the contractor assumes an underwriting risk, the total amount paid by the agency for carrying out the provisions of the contract is a medical assistance cost.

EFFECTIVE DATE NOTE: At 66 FR 6404, Jan. 19, 2001, § 434.74 was removed, effective April 19, 2001. At 66 FR 11546, Feb. 26, 2001 the effective date was delayed until June 18, 2001, at 66 FR 32776, June 18, 2001 it was furthered delayed until Aug. 17, 2001, and at 66 FR 43090, Aug. 17, 2001 it was furthered delayed until Aug. 16, 2002.

§ 434.75 Costs under no-risk contracts.

Under each contract in which the contractor assumes no underwriting risk—

(a) The amount paid by the agency for furnishing medical services to eligible recipients is a medical assistance cost; and

(b) The amount paid by the agency for the contractor's performance of other functions is an administrative cost.

EFFECTIVE DATE NOTE: At 66 FR 6404, Jan. 19, 2001, § 434.75 was removed, effective April 19, 2001. At 66 FR 11546, Feb. 26, 2001 the effective date was delayed until June 18, 2001, at